

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

28011

FILE: B-213555

DATE: April 17, 1984

MATTER OF: Introl Corporation

DIGEST:

1. GAO will not review agency's rejection of the low bidder, a small business concern, as non-responsible where the bidder refused to file an application with the Small Business Administration (SBA) for a certificate of competency (COC). A small business found nonresponsible does not have the option of seeking review of that determination by filing a protest with GAO, but must instead seek a COC from SBA.
2. Protest from nonresponsible bidder that all other bids were nonresponsive is rendered academic by agency cancellation of solicitation on grounds that no responsive bids from responsible bidders were received.

Introl Corporation protests the rejection of its low bid under invitation for bids No. N0429A-83-B-0348, issued by the Naval Air Station, Point Mugu, California, for electrical equipment. Based upon a preaward survey that found Introl unsatisfactory in the areas of technical capability, production capability, financial capability, purchasing and subcontracting procedures, performance record and ability to meet the required schedule, the Navy determined Introl to be nonresponsible. We dismiss the protest.

Since Introl is a small business concern, the Navy, having determined it to be nonresponsible, referred the matter to the Small Business Administration (SBA) for a determination as to whether a certificate of competency (COC) would be issued. Although in its protest Introl states that it did not "solicit" a COC, Defense Acquisition Regulation § 1-705.4 (Defense Acquisition Circular No. 76-24, August 28, 1980) required the contracting officer to refer the matter to the SBA. Unknown to our Office until some time after the fact, when the SBA then requested from Introl the documentation necessary to process a COC,

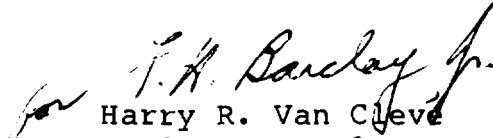
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Introl refused to provide it, apparently in the belief that a small business concern found nonresponsible has the option of seeking review of that decision either by the SBA or the General Accounting Office. SBA subsequently closed its file because Introl refused to file the COC application and the required supporting documentation.

In fact, a small business does not have the option Introl apparently thought it had. It is the responsibility of a small business firm to file a complete and acceptable COC application with SBA in order to avail itself of the possible protection provided by statute and regulation against unreasonable determinations by contracting officers as to its responsibility. SBA has conclusive authority to issue or deny a COC. 15 U.S.C. § 637(b)(7) (1982). Where a firm does not file for a COC with the SBA, we will not review the agency's determination of nonresponsibility since such action, in effect, would amount to a substitution of this Office for the agency specifically authorized by statute to review such determinations. See Okaw Industries, Inc., B-214481, March 13, 1984, 84-1 CPD _____. Parmatic Filter Corporation, B-210138, February 24, 1983, 83-1 CPD 187; Syndex Recovery Systems, Inc., B-210455, February 14, 1983, 83-1 CPD 155. Accordingly, Introl must be considered nonresponsible and ineligible for award.

The Navy subsequently has canceled the solicitation on the grounds that no responsive bids from responsible bidders have been received. This renders Introl's allegation that the other bids were nonresponsive academic and, accordingly, we will not consider the merits of the allegation. See CTEC, Inc., B-212276, November 29, 1983, 83-2 CPD 622; see also Gulf & Western Healthcare, Inc., B-209684, B-210466, August 25, 1983, 83-2 CPD 248 (contracting agency properly canceled invitation for bids after bid opening when all bids received were nonresponsive).

The protest is dismissed.


Harry R. Van Cleave
Acting General Counsel